

REMARKS

Claims 1-15 and 17 are pending in the instant application. Claim 1 has been amended to further define the features of the invention. Support for this amendment can be found throughout the specification and claims as originally filed. No new matter has been added.

Claims 6, 7 and 17 are currently withdrawn. Applicants also note that the Examiner has stated that Claims 1-5 and 8-15 have been examined to the extent that they are readable on the elected embodiment, the compound of Example 7. The Examiner also states that the Elected Species of Example 7 is not allowable and, as such, subject matter not embraced by the elected embodiment is therefore withdrawn. The Examiner has not provided any basis for determining that the elected species is not allowable. The Examiner has merely stated “the entire scope claimed is not patentable” without providing any basis for this decision. As such, and in light of the amendments and remarks made herein, Applicants respectfully request the Examiner extend the examination as described M.P.E.P §803.02 and/or elaborate on the basis for the decision so that Applicants are afforded the opportunity to traverse same.

Applicants respectfully reserve the right to pursue any non-elected, canceled or otherwise unclaimed subject matter in one or more continuation, continuation-in-part, or divisional applications.

Reconsideration and withdrawal of the objections to and the rejections of this application in view of the amendments and remarks herewith, is respectfully requested, as the application is believed to be in condition for allowance.

Rejections under 35 U.S.C. §112, First Paragraph

Claims 1-5 and 8-15 have been rejected under 35 USC § 112, first paragraph, as allegedly failing to comply with the enablement requirement. While Applicants strongly disagree with the Examiner’s allegation, and solely for the purpose of advancing prosecution, Claim 1 has been amended to recite “or a pharmacologically acceptable salt or a pharmacologically acceptable formulation thereof” instead of “or a pharmacologically acceptable salt, solvate, hydrate or a pharmacologically acceptable formulation thereof.” Support for this amendment can be found throughout the specification as originally filed. No

new matter has been added. Applicants note that claims 2-5 and 8-15 each depend from claim 1 and so no further amendment is necessary.

Applicants respectfully request that the rejections of the claims under 35 U.S.C. § 112, first paragraph, be withdrawn.

CONCLUSION

In view of the foregoing, reconsideration and withdrawal of all rejections, and allowance of the instantly claimed invention is earnestly solicited. If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' attorney at the telephone number below.

PETITION FOR EXTENSION AND FEE AUTHORIZATION

Applicants request a one month extension for filing the within response. The Commissioner is hereby authorized to charge Deposit Account No. 04-1105 for the extension fee and for any additional fee(s) due with this response. Any overpayment should be credited to the noted Deposit Account.

Dated: May 27, 2009

Respectfully submitted,

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